

Remarks

A. Pending Claims

Claims 1-3, 5, 7-12, 15-18, 20, 22-26, 29, and 225-229 are currently pending. Claims 1-3, 5, 9-12, 15-18, 21, 23-26, and 29 are rejected. Claims 7-8, 20, and 22 have been objected to. Claims 1-3, 11-12, 15-18, 20, 25-26, and 29 have been amended. Claims 225-229 are new.

B. The Claims Are Not Anticipated By Davis Pursuant To 35 U.S.C. § 102(b)

The Office Action included a rejection of claims 1-3, 5, 9-12, 16-18, and 23-26 under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 5,433,671 to Davis ("Davis"). Applicant respectfully disagrees with these rejections.

The standard for "anticipation" is one of fairly strict identity. To anticipate a claim of a patent, a single prior source must contain all the claimed essential elements. *Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 231 U.S.P.Q.81, 91 (Fed. Cir. 1986); *In re Donahue*, 766 F.2d 531, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985).

The Office Action states:

Regarding claims 1-3, 5, 9-12, Davis disclosed a first water amusement ride (30); a second amusement ride (32); an elevation system (20) configured to convey a least one flexible inflated vehicle from an exit point (22) of the first ride to entry point of the second ride (24), wherein the exit point of the first ride and the entry point of the second ride are at different elevation levels.

Claim 1 describes a combination of features including, but not limited to, the features of

an elevation increasing system configured to convey at least one flexible inflated vehicle from an exit point of the first water amusement ride, or a point subsequent to such exit point, to an entry point of the second water amusement ride, or a point preceding such entry point, wherein the exit point of the first ride and the entry point of the second ride are at different elevation levels; and a second elevation increasing system configured to convey at least one flexible inflated vehicle from the exit point of the second or any subsequent water amusement ride, or a point subsequent to such exit point, to the entry point of the first water amusement ride, or a point preceding such entry point.

Claim 16 describes a combination of features including, but not limited to, the features of

an elevation increasing system configured to convey a flexible inflated vehicle from an exit point of the first water amusement ride to an entry point of the second water amusement ride, wherein the exit point of the first ride and the entry point of the second ride are at different elevation levels; wherein the exit point of the second water amusement ride and the entry point of the first water amusement ride are coupled; and a third water amusement ride, wherein an exit point of the third ride is coupled to the exit of the second water ride, and wherein an entry point of the third ride is coupled to the entry point of the first ride.

At least the above-quoted features of the claims, in combination with other features of the claim, do not appear to be taught or suggested by the cited art.

Davis discloses:

In accordance with a first aspect of the present invention, a device is provided for transporting a water ride participant from a first elevation to a second, higher elevation. The device includes a spiral transport element extending generally between the first and second elevations. The spiral transport element has first and second end sections, an intermediate section and an inner surface extending along the intermediate and first and second end sections. The inner surface defines a spiral pathway extending between the first and second elevations. Further provided is a drive mechanism coupled to the spiral transport element for effecting rotation of the transport element such that the first end section of the transport element is capable of receiving a participant at the first

elevation and the second end section is capable of releasing the participant at the second elevation after the participant has traveled along the spiral pathway from the first elevation to the second, higher elevation.

Preferably, the spiral transport element comprises a spiral flume, a rotatable shaft and means for fixedly connecting the spiral flume to the shaft. The spiral flume comprises a plurality of fiberglass flume sections fixedly connected to one another by fasteners. Alternatively, the spiral transport element may comprise a spiral tube having an inclined axis, a rotatable shaft and means for fixedly connecting the spiral tube to the shaft.

In accordance with a second aspect of the present invention, an amusement water ride is provided which includes a downward sloping element having an upper surface over which water flows and upon which a participant is capable of moving under the influence of gravity from a first end of the sloping element to a second, lower end of the sloping element. The second, lower end is located generally at a first elevation and the first end is located generally at a second, higher elevation. The water ride further includes a pool of water located generally at the first elevation and a spiral transport device for retrieving the participant from the pool of water and transporting the participant to the second elevation where the participant is released at the first end of the sloping element. (Davis, column 1, line 52 through column 2, line 25).

Applicant submits Davis does not appear to teach the combination of features in Applicant's amended claim 1, including, but not limited to, the features of

an elevation increasing system configured to convey at least one flexible inflated vehicle from an exit point of the first water amusement ride, or a point subsequent to such exit point, to an entry point of the second water amusement ride, or a point preceding such entry point, wherein the exit point of the first ride and the entry point of the second ride are at different elevation levels; and a second elevation increasing system configured to convey at least one flexible inflated vehicle from the exit point of the second or any subsequent water amusement ride, or a point subsequent to such exit point, to the entry point of the first water amusement ride, or a point preceding such entry point.

Applicant submits Davis does not appear to teach the combination of features in Applicant's amended claim 16, including, but not limited to, the features of

an elevation increasing system configured to convey a flexible inflated vehicle from an exit point of the first water amusement ride to an entry point of the second water amusement ride, wherein the exit point of the first ride and the entry point of the second ride are at different elevation levels; wherein the exit point of the second water amusement ride and the entry point of the first water amusement ride are coupled; and a third water amusement ride, wherein an exit point of the third ride is coupled to the exit of the second water ride, and wherein an entry point of the third ride is coupled to the entry point of the first ride.

To anticipate a claim of a patent, a single prior source must contain all the claimed essential elements. Davis appears to teach a spiral transport element for transporting a water ride participant from a first elevation to a second, higher elevation including a downward sloping element having an upper surface over which water flows from the second higher elevation to the first lower elevation. The teaching in Davis does not appear to be the same as the combination of features in Applicant's claims, including, but not limited to, the features of

an elevation increasing system configured to convey at least one flexible inflated vehicle from an exit point of the first water amusement ride, or a point subsequent to such exit point, to an entry point of the second water amusement ride, or a point preceding such entry point, wherein the exit point of the first ride and the entry point of the second ride are at different elevation levels; and a second elevation increasing system configured to convey at least one flexible inflated vehicle from the exit point of the second or any subsequent water amusement ride, or a point subsequent to such exit point, to the entry point of the first water amusement ride, or a point preceding such entry point.

The teaching in Davis does not appear to be the same as the combination of features in Applicant's claims, including, but not limited to, the features of

an elevation increasing system configured to convey a flexible inflated vehicle from an exit point of the first water amusement ride to an entry point of the second water amusement ride, wherein the exit point of the first ride and the entry point of the second ride are at different elevation levels; wherein the exit point of the second water amusement ride and the entry point of the first water amusement

ride are coupled; and a third water amusement ride, wherein an exit point of the third ride is coupled to the exit of the second water ride, and wherein an entry point of the third ride is coupled to the entry point of the first ride.

Applicant submits that the combination of features in claims 1 and 16 and the claims dependent thereon are neither taught nor suggested by the cited art. Applicant believes many of the claims dependent on claims 1 and 16 may be separately patentable. Applicant respectfully requests removal of the rejection of claims 1 and 16 and claims dependent thereon.

Claim 2 includes, but is not limited to, the feature of: “wherein the first water ride and/or the second water ride comprises at least one water releasing mechanism configured to inject water onto a surface of the water ride such that a body of flowing water is produced on the surface of the water ride.” The features of claim 2, in combination with the features of independent claim 1, do not appear to be taught or suggested by the cited art.

Claim 3 includes, but is not limited to, the feature of: “wherein the elevation increasing system and/or the second elevation increasing system comprises a spiral transport device.” The features of claim 3, in combination with the features of independent claim 1, do not appear to be taught or suggested by the cited art.

Claim 5 includes, but is not limited to, the feature of: “wherein an exit point of the second water amusement ride and an entry point of the first water amusement ride are coupled.” The features of claim 5, in combination with the features of independent claim 1, do not appear to be taught or suggested by the cited art.

Claims 9 and 23 include, but are not limited to, the feature of: “further comprising a floating queue line coupled to an entry point of at least one of the water amusement rides.” The

features of claims 9 and 23, in combination with the features of independent claims 1 and 16, respectively, do not appear to be taught or suggested by the cited art.

Claims 10 and 24 include, but are not limited to, the feature of: “wherein the floating queue line comprises a queue line channel wherein the queue line channel is configured to hold water at a depth sufficient to allow a flexible inflated vehicle to float within the queue line channel during use, and wherein the floating queue line is coupled to the water ride such that a flexible inflated vehicle remains in the water while being transferred from the channel along the floating queue line to the water ride.” The features of claims 10 and 24, in combination with the features of independent claims 1 and 16, respectively, do not appear to be taught or suggested by the cited art.

Claim 11 includes, but is not limited to, the feature of: “wherein the elevation increasing system and/or the second elevation increasing system comprises a water slide, and wherein at least a portion of the water slide is uphill.” The features of claim 11, in combination with the features of independent claim 1, do not appear to be taught or suggested by the cited art.

Claim 12 includes, but is not limited to, the feature of: “wherein the elevation increasing system or the second elevation increasing system comprises an uphill water slide.” The features of claim 12, in combination with the features of independent claim 1, do not appear to be taught or suggested by the cited art.

Claim 17 includes, but is not limited to, the feature of: “wherein the first water ride, the second water ride, and/or the third water ride comprises at least one water releasing mechanism configured to inject water onto a surface of the water ride such that a body of flowing water is produced on the surface of the water ride.” The features of claim 17, in combination with the features of independent claim 16, do not appear to be taught or suggested by the cited art.

Claim 18 includes, but is not limited to, the feature of: “wherein the elevation increasing system comprises a spiral transport device.” The features of claim 18, in combination with the features of independent claim 16, do not appear to be taught or suggested by the cited art.

Claim 25 includes, but is not limited to, the feature of: “wherein the elevation increasing system comprises a water slide, and wherein at least a portion of the water slide is uphill.” The features of claim 25, in combination with the features of independent claim 16, do not appear to be taught or suggested by the cited art.

Claim 26 includes, but is not limited to, the feature of: “wherein the elevation increasing system comprises an uphill water slide.” The features of claim 26, in combination with the features of independent claim 16, do not appear to be taught or suggested by the cited art.

Claim 29 includes, but is not limited to, the feature of: “wherein the elevation increasing system comprises a conveyor belt system.” The features of claim 29, in combination with the features of independent claim 16, do not appear to be taught or suggested by the cited art.

C. The Claims Are Not Obvious Over Davis In View of Brodrick Pursuant To 35 U.S.C. § 103(a)

The Office Action included a rejection of claims 15 and 29 under 35 U.S.C. 103(a) as obvious over Davis in view of U.S. Patent No. 5,167,321 to Brodrick, Sr. (“Brodrick”). Applicant respectfully disagrees with these rejections.

The Office Action states:

It is noted that the elevation of Davis is not conveyor belt system as set forth in these claims. However, such conveyor belt system is very well known in the art as evidenced by \$\$\$\$\$. Therefore, it would have been obvious to one of ordinary skill in the art to modify the elevation of Davis with the conveyor belt system as taught by Brodrick, Sr. for the purpose of providing an alternative elevation for the users.

Applicant submits that the cited art does not appear to teach or suggest the combination of features in claims 15 and 29.

Claims 15 and 29 describe a combination of features including, but not limited to, the features of "wherein the elevation increasing system comprises a conveyor belt system."

Davis discloses:

A transport device is provided for transporting a water ride participant from a first elevation to a second, higher elevation. The device includes a spiral transport element extending generally between the first and second elevations. (Davis, abstract).

Brodrick discloses:

The present invention uses hook and loop materials to achieve temporary, releasable adhesion between the rafts and the conveyer belt or chain. This solution eliminates several of the previous problems. It makes it possible to transport rafts on very steep conveyers, which has hitherto not been feasible. It reduces safety risks in that there are no protruding parts. It greatly facilitates operation, since the rafts do not have to be precisely positioned to match up latching elements. Because of this feature, it is easy to obtain automatic operation at both ends of the conveyer, with little supervision and labor requirement. (Brodrick, column 1, lines 34-45).

Applicant submits Davis in view of Brodrick does not appear to teach the combination of

features in Applicant's claims. Obviousness can only be established by "showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teaching of the references." *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). The Office Action states, "it would have been obvious to one of ordinary skill in the art to modify the elevation system of Davis with a conveyor belt system as taught by Brodrick, Sr. for the purpose of providing alternate method transporting the ride vehicles to better entertain the users." However, Davis appears to teach "A transport device is provided for transporting a water ride participant from a first elevation to a second, higher elevation. The device includes a spiral transport element extending generally between the first and second elevations." Davis appears to teach transporting water ride participants for the purposes of entertainment. Brodrick appears to teach using hook and loop materials in combination with conveyor belt systems in order to transport rafts on very steep conveyors. Applicant respectfully submits there is no motivation to combine the teachings of Davis and Brodrick by combining hook and loop conveyor system designed to convey rafts up very steep inclines, which would be inherently dangerous to transport participants in said rafts up such steep inclines, with a water ride using a spiral transport designed to transport water ride participants between elevations in an entertaining manner. Applicant submits Davis in view of Brodrick does not appear to teach the combination of features in Applicant's claims, including, but not limited to, the features of "wherein the elevation increasing system comprises a conveyor belt system." Applicant respectfully submits that the cited art does not appear to teach or suggest the combination of features in claims 15 and 29. Applicant requests removal of the obviousness rejection of claims 15 and 29.

D. Allowable Subject Matter and Support for New Claims

The Office Action states that claims 7, 8, 20, and 22 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

New independent claim 226 includes features from objected to dependent claim 7. New independent claim 227 includes features from objected to dependent claim 8. New independent claim 228 includes features from objected to dependent claim 20. New independent claim 229 includes features from objected to dependent claim 230.

Support for new claim 225 may be found at least in original claims 1 and 5.

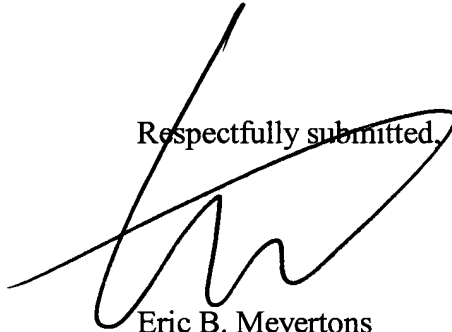
Inventors: Henry et al.
Appl. Ser. No.: 10/693,654
Atty. Dkt. No.: 5898-00100

E. Conclusion

Applicant submits that the claims are in condition for allowance. Favorable reconsideration is respectfully requested.

A fee authorization form is included to cover fees for the submission of excess claims. If any extension of time is required, Applicant hereby requests the appropriate extension of time. If any additional fees are required or have been overpaid, please appropriately charge, or credit, those fees to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account Number 50-1505/5898-00100/EBM.

Respectfully submitted,



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Date: 7-22-05